

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 498

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Max Coll

AN ACT

**RELATING TO HEALTH CARE; ENACTING THE HEALTH SECURITY ACT TO
PROVIDE FOR COMPREHENSIVE STATEWIDE HEALTH CARE; PROVIDING FOR
HEALTH CARE PLANNING; ESTABLISHING PROCEDURES TO CONTAIN HEALTH
CARE COSTS; CREATING A COMMISSION; PROVIDING FOR ITS POWERS AND
DUTIES; PROVIDING FOR HEALTH CARE DELIVERY REGIONS AND REGIONAL
COUNCILS; DIRECTING AND AUTHORIZING THE DEVELOPMENT OF A STATE
HEALTH CARE PLAN.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. SHORT TITLE. -- This act may be cited as the
"Health Security Act".**

**Section 2. PURPOSES OF ACT. -- The purposes of the Health
Security Act are to:**

**A. create a program that ensures health care
coverage to all New Mexicans through a combination of public**

underscored material = new
[bracketed material] = del etc

underscored material = new
[bracketed material] = delete

1 and private financing; and

2 B. control escalating health care costs.

3 Section 3. DEFINITIONS. -- As used in the Health Security
4 Act:

5 A. "beneficiary" means a person eligible for
6 coverage and benefits pursuant to the health plan;

7 B. "budget" means the total of all categories of
8 dollar amounts of expenditures for a stated period authorized
9 for an entity or a program;

10 C. "capital budget" means that portion of a budget
11 that establishes expenditures for:

12 (1) acquisition or addition of substantial
13 improvements to real property; or

14 (2) acquisition of tangible personal property;

15 D. "case management" means a system for insuring a
16 comprehensive program that will meet an individual's need for
17 care by coordinating and linking the components of health care;

18 E. "commission" means the health care commission
19 created pursuant to the Health Security Act;

20 F. "consumer price index for medical care prices"
21 means that index as published by the bureau of labor statistics
22 of the federal department of labor;

23 G. "controlling interest" means:

24 (1) a five percent or greater ownership
25 interest, direct or indirect, in the person controlled; or

. 143985. 1

underscored material = new
[bracketed material] = delete

1 (2) a financial interest, direct or indirect,
2 and, because of business or personal relationships, having the
3 power to direct important decisions of the person controlled;

4 H. "financial interest" means an ownership interest
5 of any amount, direct or indirect;

6 I. "group practice" means an association of health
7 care providers that provides one or more specialized health
8 care services or a tribal coalition in partnership or under
9 contract with the federal Indian health service that is
10 authorized under federal law to provide health care to Native
11 American populations in the state;

12 J. "health care" means health care provider
13 services and health facility services;

14 K. "health care provider" means:

15 (1) a person licensed or certified and
16 authorized to provide health care in New Mexico;

17 (2) an individual licensed or certified by a
18 nationally recognized professional organization and designated
19 as a health care provider by the commission as a:

20 (a) prosthetist;

21 (b) orthotist; or

22 (c) oculist; or

23 (3) a person that is a group practice or a
24 transportation service;

25 L. "health facility" means a school-based clinic,

1 an Indian health facility or a licensed general hospital,
2 special hospital, outpatient facility, psychiatric hospital,
3 laboratory, skilled nursing facility or nursing facility;

4 M. "health plan" means the program that is created
5 and administered by the commission for provision of health care
6 pursuant to the Health Security Act;

7 N. "major capital expenditure" means construction
8 or renovation of facilities or the acquisition of diagnostic,
9 treatment or transportation equipment by a health care provider
10 or health facility that costs more than an amount recommended
11 and established by the commission;

12 O. "operating budget" means the budget of a health
13 facility exclusive of the facility's capital budget;

14 P. "person" means an individual or any other legal
15 entity;

16 Q. "primary care provider" means a health care
17 provider who is a physician, osteopathic physician, nurse
18 practitioner, physician assistant, osteopathic physician's
19 assistant, pharmacist clinician or other health care provider
20 certified by the commission as a primary care provider after
21 the commission's determination that the provider provides the
22 first level of health care for a beneficiary's health needs;

23 R. "provider budget" means the authorized
24 expenditures pursuant to payment mechanisms established by the
25 commission to pay for health care furnished by health care

underscored material = new
[bracketed material] = del ete

1 providers participating in the health plan; and

2 S. "transportation service" means a person
3 providing the services of an ambulance, helicopter or other
4 conveyance that is equipped with health care supplies and
5 equipment and is used to transport patients to other health
6 care providers or health facilities.

7 Section 4. HEALTH CARE COMMISSION CREATED--GOVERNMENTAL
8 INSTRUMENTALITY.--The "health care commission" is created as a
9 public body, politic and corporate, separate and apart from the
10 state, constituting a governmental instrumentality. The
11 commission is created and organized for the purposes of
12 creating a health care program that ensures coverage to all New
13 Mexicans through a combination of public and private financing
14 of the statewide health program and controlling escalating
15 health care costs. The commission consists of fifteen members.

16 Section 5. COMMISSION--APPOINTING AUTHORITY FOR
17 MEMBERS--CREATION OF HEALTH CARE COMMISSION MEMBERSHIP
18 NOMINATING COMMITTEE--MEMBERSHIP, TERMS AND DUTIES OF
19 COMMITTEE.--

20 A. The members of the commission shall be appointed
21 by the governor. The governor shall appoint those members in
22 accordance with the procedures and provisions of this section.

23 B. There is created the "health care commission
24 membership nominating committee", consisting of: two members
25 appointed by the governor; three members appointed by the

underscored material = new
[bracketed material] = delete

1 speaker of the house of representatives; three members
2 appointed by the president pro tempore of the senate; two
3 members appointed by the minority leader of the house of
4 representatives; and two members appointed by the minority
5 leader of the senate. An elected official shall not be
6 appointed to serve on the committee. At the first meeting of
7 the committee it shall elect a chair from its membership. The
8 chair shall vote only in the case of a tie vote.

9 C. The first twelve members appointed to the
10 committee shall have terms chosen by lot: four two-year terms;
11 four three-year terms; and four four-year terms. Thereafter,
12 members shall serve four-year terms. A member shall serve
13 until his successor is appointed and qualified. Successor
14 members shall be appointed by the appointing authority that
15 made the initial appointment to the committee.

16 D. Appointed members of the committee shall have
17 substantial knowledge of the health care system as demonstrated
18 by education or experience. A person shall not be appointed to
19 the committee if he or a member of his household is employed
20 by, an officer of or has a controlling interest in a person
21 providing health care or health insurance, directly or as an
22 agent of a health insurer.

23 E. The committee shall take appropriate action to
24 ensure that adequate prior notice of its meetings is advertised
25 and reported in media outlets throughout the state in addition

. 143985. 1

underscored material = new
[bracketed material] = delete

1 to publication of a legal notice in major newspapers.
2 Publication of the legal notice shall occur once each week for
3 the two weeks immediately preceding the date of a meeting.
4 Meetings of the committee shall be open to the public, and
5 public comment shall be allowed. Meetings may be closed only
6 for discussion of candidates prior to selection. Final
7 selection of candidates shall be by vote of the members and
8 shall be conducted in a public meeting.

9 F. The committee shall hold its first meeting on or
10 before June 15, 2004. The committee shall actively solicit,
11 accept and evaluate applications from qualified persons for
12 membership on the commission subject to the requirements for
13 commission membership qualifications set forth in Section 6 of
14 the Health Security Act.

15 G. No later than September 15, 2004, the committee
16 shall submit to the governor the names of persons qualified for
17 appointment to and those recommended for appointment to the
18 commission by a majority of the committee. Immediately after
19 receiving committee nominations, the governor may make one
20 request of the committee for submission of additional names.
21 If a majority of the committee finds that additional persons
22 would be qualified, the committee shall promptly submit
23 additional names and recommend those persons for appointment to
24 the commission. The committee shall submit not fewer than two
25 or more than three names for a membership position.

underscored material = new
[bracketed material] = delete

1 H. Appointed committee members shall be reimbursed
2 pursuant to the Per Diem and Mileage Act for expenses incurred
3 in fulfilling their duties.

4 I. Staff to assist the committee in its duties
5 until a commission is appointed shall be furnished by the
6 department of health. Thereafter, commission staff shall
7 assist the committee in its duties.

8 Section 6. APPOINTMENT OF COMMISSION MEMBERS--
9 QUALIFICATIONS--TERMS.--

10 A. From the nominees submitted by the health care
11 commission membership nominating committee, the governor shall
12 appoint the members of the initial commission by November 1,
13 2004.

14 B. The terms of the initial members appointed shall
15 be chosen by lot: five members shall be appointed for terms of
16 four years; five members shall be appointed for terms of three
17 years; and five members shall be appointed for terms of two
18 years. Thereafter, all members shall be appointed for terms of
19 four years. After initial terms are served, no member shall
20 serve more than three consecutive four-year terms. A member
21 shall serve until his successor is appointed and qualified.

22 C. When an actual vacancy occurs in the membership
23 of the commission, the health care commission membership
24 nominating committee shall meet and act within thirty days of
25 the occurrence of the vacancy. From the nominees submitted,

underscored material = new
[bracketed material] = delete

1 the governor shall fill the vacancy within thirty days after
2 receiving final nominations.

3 D. Members of the commission shall include ten
4 persons who represent consumer and employer interests, and five
5 persons who represent either health care providers or health
6 facilities.

7 E. Persons appointed who do not represent health
8 care providers or health facilities must have a knowledge of
9 the health care system as demonstrated by experience or
10 education. To ensure fair representation of all areas of the
11 state, members shall be appointed from each of the state board
12 of education districts as follows:

13 (1) two from state board of education
14 district 1;

15 (2) one from state board of education
16 district 2;

17 (3) one from state board of education
18 district 3;

19 (4) two from state board of education
20 district 4;

21 (5) two from state board of education
22 district 5;

23 (6) one from state board of education
24 district 6;

25 (7) two from state board of education

. 143985. 1

underscored material = new
[bracketed material] = delete

1 district 7;

2 (8) two from state board of education

3 district 8;

4 (9) one from state board of education

5 district 9; and

6 (10) one from state board of education

7 district 10.

8 F. A member may be removed from the commission by a
9 majority vote of the members present at a meeting where a
10 quorum is duly constituted. A member may be removed only for
11 incompetence, neglect of duty or malfeasance in office. No
12 member shall be removed without proceedings consisting of at
13 least one notice of hearing and an opportunity to be heard.
14 Removal proceedings shall be before the commission and in
15 accordance with rules adopted by the commission.

16 G. A majority of the commission's members
17 constitutes a quorum for the transaction of business.
18 Annually, the commission shall elect its chairman and any other
19 officers it deems necessary.

20 H. To reimburse them for expenses incurred in
21 service on the commission, members shall receive per diem and
22 mileage in accordance with the provisions of the Per Diem and
23 Mileage Act. Additionally, members shall be compensated at the
24 rate of two hundred dollars (\$200) for each meeting actually
25 attended not to exceed compensation for one hundred twenty

1 meetings for a two-year period occurring in a term.

2 Section 7. CONFLICT OF INTEREST--DISQUALIFICATION FOR
3 APPOINTMENT--DISCLOSURE BY MEMBERS AND DISQUALIFICATION FROM
4 VOTING ON CERTAIN MATTERS. --

5 A. Except for persons appointed to represent health
6 facilities or health care providers, a person shall be
7 disqualified for appointment to the commission if he or a
8 member of his household is employed by, an officer of or has a
9 controlling interest in a person providing health care or
10 health insurance, directly or as an agent of a health insurer.

11 B. The commission shall adopt a conflict-of-
12 interest disclosure statement for use by all members that
13 requires disclosure of a financial interest, whether or not a
14 controlling interest, of the member or a member of his
15 household in a person providing health care or health
16 insurance.

17 C. No member of the commission shall vote on any
18 matter in which he or a member of his household has a financial
19 interest, except that all members representing health
20 facilities or health care providers may vote on matters that
21 pertain generally to health facilities or health care
22 providers.

23 D. If there is a question about a conflict of
24 interest of a commission member, the other members shall vote
25 on whether to allow the member to vote.

. 143985. 1

1 Section 8. CODE OF CONDUCT TO BE ADOPTED BY COMMISSION. --

2 A. At its first meeting the commission shall adopt
3 a general code of conduct for commission members and employees
4 subject to the commission's control. The code of conduct shall
5 include at least those matters and activities proscribed by the
6 Governmental Conduct Act.

7 B. Violation of a provision of the adopted code of
8 conduct is grounds for removal of a commission member and
9 grounds for dismissal of an employee.

10 Section 9. APPLICATION OF CERTAIN STATE LAWS TO
11 COMMISSION. --The commission and regional councils created
12 pursuant to the Health Security Act shall be subject to and
13 shall comply with the provisions of the:

- 14 A. Open Meetings Act;
- 15 B. State Rules Act;
- 16 C. Inspection of Public Records Act; and
- 17 D. Public Records Act.

18 Section 10. CHIEF EXECUTIVE OFFICER-- STAFF-- CONTRACTS--
19 BUDGETS. --

20 A. The commission shall appoint and set the salary
21 of a "chief executive officer". The chief executive officer
22 shall serve at the pleasure of the commission and has authority
23 to carry on the day-to-day operations of the commission and the
24 health plan.

25 B. The chief executive officer shall employ those

underscored material = new
[bracketed material] = delete

1 persons necessary to administer and implement the provisions of
2 the Health Security Act.

3 C. The chief executive officer and his staff shall
4 implement the Health Security Act in accordance with that act
5 and the rules adopted by the commission. The chief executive
6 officer may delegate authority to employees and may organize
7 the staff into units to facilitate its work.

8 D. If the chief executive officer determines that
9 the commission staff or a state agency does not have the
10 resources or expertise to perform a necessary task, he shall
11 contract for performance from a person that has a demonstrated
12 capability to perform the task. He may also contract for
13 professional consultant services. If claims processing is
14 provided by contract, that contract shall be approved by and
15 executed on behalf of the commission. The contract shall
16 require that all work be performed entirely in New Mexico. All
17 contracts shall be reviewed by the commission at least every
18 two years to ensure that they continue to meet the criteria and
19 performance standards of the contract and the needs of the
20 commission.

21 E. The chief executive officer shall prepare and
22 submit an annual budget request and plan of operation to the
23 commission for its approval.

24 Section 11. COMMISSION--GENERAL DUTIES.--The commission
25 shall:

. 143985. 1

underscored material = new
[bracketed material] = delete

1 A. adopt a five-year plan for the initial
2 implementation of the provisions of the Health Security Act,
3 update that plan and adopt other long- and short-range plans to
4 provide continuity and development of the state's health care
5 system;

6 B. design the health plan to fulfill the purposes
7 of and conform with the provisions of the Health Security Act;

8 C. provide a program to educate the public, health
9 care providers and health facilities about the health plan and
10 the persons eligible to receive its benefits;

11 D. study and adopt as provisions of the health plan
12 cost-effective methods of providing quality health care to all
13 beneficiaries, according high priority to increased reliance
14 on:

15 (1) preventive and primary care that includes
16 immunization and screening examinations;

17 (2) providing health care in rural or
18 underserved areas of the state;

19 (3) in-home and community-based alternatives
20 to institutional health care; and

21 (4) case management services when appropriate;

22 E. establish compensation methods for health care
23 providers and adopt standards and procedures for negotiating
24 and entering into contracts with participating health care
25 providers;

underscored material = new
[bracketed material] = delete

1 F. annually, and for those projected future periods
2 the commission believes appropriate, establish health plan
3 budgets;

4 G. establish capital budgets for health facilities
5 and include and adopt in establishing those budgets:

6 (1) standards and procedures for determining
7 the budgets; and

8 (2) a requirement for prior approval by the
9 commission for major capital expenditures by a health facility;

10 H. negotiate and enter into health care reciprocity
11 agreements with other states and foreign countries and
12 negotiate and enter into health care agreements with out-of-
13 state health care providers and health facilities;

14 I. develop claims and payment procedures for health
15 care providers and health facilities and include provisions to
16 ensure timely payments and continuity of payments to enable the
17 providers and facilities to meet their financial obligations as
18 they become due;

19 J. establish a system to collect and analyze health
20 care data and other data necessary to improve the quality,
21 efficiency and effectiveness of health care and to control
22 costs of health care in New Mexico, which system shall include
23 data on:

24 (1) mortality, including accidental causes of
25 death, and natality;

- 1 (2) morbi di ty;
- 2 (3) health behavi or;
- 3 (4) physical and psychological impairment and
- 4 di sabi lity;
- 5 (5) health care system costs and health care
- 6 availability, utilization and revenues;
- 7 (6) environmental factors;
- 8 (7) availability, adequacy and training of
- 9 health care personnel;
- 10 (8) demographic factors;
- 11 (9) social and economic conditions affecting
- 12 health; and
- 13 (10) other factors determined by the
- 14 commi ssi on;

15 K. standardize data collection and specific methods
16 of measurement across databases and use scientific sampling or
17 complete enumeration for reporting health information;

18 L. establish a health care delivery system that is
19 efficient to administer and that eliminates unnecessary
20 administrative costs;

21 M adopt rules necessary to implement and monitor a
22 health plan formulary to provide prescription drugs and a
23 pricing procedure for nonprescription drugs, durable medical
24 equipment and supplies, eyeglasses, hearing aids and oxygen;

25 N. study and evaluate the adequacy and quality of

underscored material = new
[bracketed material] = delete

1 health care furnished pursuant to the Health Security Act, the
2 cost of each type of service and the effectiveness of cost-
3 containment measures in the health plan;

4 O. study and monitor the migration of persons to
5 New Mexico to determine if persons with costly health care
6 needs are moving to New Mexico to receive health care, and if
7 migration appears to threaten the financial stability of the
8 health plan, recommend to the legislature changes in
9 eligibility requirements, premiums or other statutory changes
10 that may be necessary to maintain the financial integrity of
11 the health plan;

12 P. study and evaluate the cost of health care
13 provider professional liability insurance and its impact on the
14 price of health care services and recommend statutory changes
15 to the legislature as necessary;

16 Q. establish and approve changes in coverage
17 benefits and benefit standards in the health plan;

18 R. conduct necessary investigations and inquiries;

19 S. adopt rules necessary to implement, administer
20 and monitor the operation of the health plan;

21 T. adopt rules to establish a procurement process
22 for services and property;

23 U. meet as needed, but no less often than once
24 every month; and

25 V. report its progress in implementing the Health

underscored material = new
[bracketed material] = delete

1 Security Act to the first session of the forty-seventh
2 legislature and report annually thereafter to the legislature
3 and the governor on the commission's activities and the
4 operation of the health plan and include in the annual report:

5 (1) a summary of information about health care
6 needs, health care services, health care expenditures, revenues
7 received and projected revenues and other relevant issues
8 relating to the health plan, the initial five-year plan and
9 future updates of that plan and other long- and short-range
10 plans; and

11 (2) recommendations on methods to control
12 health care costs and improve access to and the quality of
13 health care for state residents, as well as recommendations for
14 legislative action if any are found to be necessary.

15 Section 12. COMMISSION--AUTHORITY.--The commission has
16 the authority necessary to carry out all duties and
17 responsibilities required of it pursuant to the Health Security
18 Act, whether that authority is expressly provided in that act
19 or is necessarily implied. The commission retains
20 responsibility for its duties but may delegate authority to the
21 chief executive officer. However, the authority to take the
22 following actions is expressly reserved in the commission:

23 A. approve the commission's budget and plan of
24 operation;

25 B. approve the health plan and make changes in the

underscored material = new
[bracketed material] = delete

1 health plan, but only after legislative approval of those
2 changes specified in Section 30 of the Health Security Act;

3 C. make rules and conduct both rulemaking and
4 adjudicatory hearings in person or by use of a hearing officer;

5 D. issue subpoenas to persons to appear and testify
6 before the commission and to produce documents and other
7 information relevant to the commission's inquiry and enforce
8 this subpoena power through an action in the district court of
9 Santa Fe county;

10 E. make reports and recommendations to the
11 legislature;

12 F. subject to the prohibitions and restrictions of
13 Section 21 of the Health Security Act, apply for program
14 waivers from any governmental entity if the commission
15 determines that the waivers are necessary to ensure the
16 participation by the greatest possible number of beneficiaries;

17 G. accept grants, apply for and receive loans and
18 accept donations;

19 H. acquire or lease real property and make
20 improvements on it and acquire by lease or by purchase tangible
21 and intangible personal property;

22 I. dispose of and transfer real or personal
23 property, but only at public sale after adequate notice;

24 J. enter into contracts to incur debt and borrow
25 money in its own name and enter into financing agreements with

. 143985. 1

underscored material = new
[bracketed material] = delete

1 the state, agencies or instrumentalities of the state, or with
2 any commercial bank or credit provider;

3 K. appoint and prescribe the duties of employees,
4 fix their compensation, pay their expenses and provide an
5 employee benefit program;

6 L. establish and maintain banking relationships,
7 including establishment of checking and savings accounts and
8 lines of credit; and

9 M issue revenue bonds and participate in the
10 programs of the New Mexico finance authority.

11 Section 13. ADVISORY BOARDS. --

12 A. The commission shall establish a "health care
13 provider advisory board" and a "health facility advisory
14 board". It may establish additional advisory boards to assist
15 it in performing its duties. Advisory boards shall assist the
16 commission in matters requiring the expertise and knowledge of
17 the advisory boards' members.

18 B. The commission may appoint not more than two
19 commission members and up to five additional persons to serve
20 on an advisory board it creates. Advisory board members shall
21 be paid per diem and mileage in accordance with the provisions
22 of the Per Diem and Mileage Act.

23 C. Except for the health care provider advisory
24 board and the health facility advisory board, no more than two
25 advisory board members shall have a financial interest, direct

underscored material = new
[bracketed material] = delete

1 or indirect, in a person providing health care or a person
2 providing health insurance.

3 D. Staff and technical assistance for an advisory
4 board shall be provided by the commission as necessary.

5 Section 14. HEALTH CARE DELIVERY REGIONS. -- The commission
6 shall establish health care delivery regions in the state,
7 based on geography and health care resources. The regions may
8 have differential fee schedules, budgets, capital expenditure
9 allocations or other features to encourage the provision of
10 health care in rural and other underserved areas or to
11 otherwise tailor the delivery of health care to fit the needs
12 of a region or a part of a region.

13 Section 15. REGIONAL COUNCILS. --

14 A. The commission shall create regional councils in
15 the designated health care delivery regions. In selecting
16 persons to serve as members of regional councils, the
17 commission shall consider the comments and recommendations of
18 persons in the region who are knowledgeable about health care
19 and the economic and social factors affecting the region.

20 B. The regional councils shall be composed of the
21 commission members who live in the region and five other
22 members appointed by the commission. No more than two
23 noncommission council members shall have any financial
24 interest, direct or indirect, in a person providing health care
25 or a person providing health insurance.

. 143985. 1

underscored material = new
[bracketed material] = delete

1 C. Members of a regional council shall be paid per
2 diem and mileage in accordance with the provisions of the Per
3 Diem and Mileage Act.

4 D. The regional councils shall hold public hearings
5 to receive comments, suggestions and recommendations from the
6 public regarding regional health care needs. The councils
7 shall report to the commission at times specified by the
8 commission to ensure that regional concerns are considered in
9 the development and update of the five-year plan, other short-
10 and long-range plans and projections, fee schedules, budgets
11 and capital expenditure allocations.

12 E. Staff and technical assistance for the regional
13 councils shall be provided by the commission.

14 Section 16. RULEMAKING. --

15 A. The commission shall adopt rules necessary to
16 carry out the duties of the commission and the provisions of
17 the Health Security Act.

18 B. The commission shall not adopt, amend or repeal
19 any rule affecting a person outside the commission without a
20 public hearing on the proposed action before the commission or
21 a hearing officer designated by the commission. The hearing
22 officer may be a member of the commission's staff. The hearing
23 shall be held in Santa Fe unless the commission determines that
24 it would be in the interest of those affected to hold the
25 hearing elsewhere in the state. Notice of the subject matter

. 143985. 1

underscored material = new
[bracketed material] = delete

1 of the rule, the action proposed to be taken, the time and
2 place of the hearing, the manner in which interested persons
3 may present their views and the method by which copies of the
4 proposed rule or an amendment or repeal of an existing rule may
5 be obtained shall be published once at least thirty days prior
6 to the hearing date in a newspaper of general circulation in
7 the state and shall also be published in an informative non-
8 legal format in one newspaper published in each health care
9 delivery region and mailed at least thirty days prior to the
10 hearing date to all persons who have made a written request for
11 advance notice of hearing.

12 C. All rules adopted by the commission shall be
13 filed in accordance with the State Rules Act.

14 Section 17. HEALTH PLAN. --

15 A. After notice and public hearing, including
16 taking public comment and the reports of the regional councils,
17 the commission shall adopt a health plan.

18 B. The health plan shall be designed to provide
19 comprehensive, necessary and appropriate health care benefits,
20 including preventive health care and primary, secondary and
21 tertiary health care for acute and chronic conditions. The
22 health plan may provide for certain health care to be phased in
23 as the health plan budget allows.

24 C. The commission shall specify the following
25 health care to be included in the health plan and shall

underscored material = new
[bracketed material] = delete

1 designate the health care either as covered health care or
2 health care to be phased in:

- 3 (1) preventive health services;
- 4 (2) health care provider services;
- 5 (3) health facility inpatient and outpatient
6 services;
- 7 (4) laboratory tests and imaging procedures;
- 8 (5) hospice care;
- 9 (6) in-home, community-based and institutional
10 long-term care services;
- 11 (7) prescription drugs;
- 12 (8) inpatient and outpatient mental and
13 behavioral health services;
- 14 (9) drug and other substance abuse services;
- 15 (10) preventive and prophylactic dental
16 services, including an annual dental examination and cleaning;
- 17 (11) vision appliances, including medically
18 necessary contact lenses;
- 19 (12) medical supplies, durable medical
20 equipment and selected assistive devices, including hearing and
21 speech assistive devices; and
- 22 (13) experimental or investigational
23 procedures or treatments as specified by the commission.

24 D. Covered health care services shall not include:

- 25 (1) surgery for cosmetic purposes other than

underscored material = new
[bracketed material] = del etc

1 for reconstructive purposes;

2 (2) medical examinations and medical reports
3 prepared for purchasing or renewing life insurance or
4 participating as a plaintiff or defendant in a civil action for
5 the recovery or settlement of damages; and

6 (3) orthodontic services and cosmetic dental
7 services except those cosmetic dental services necessary for
8 reconstructive purposes.

9 E. The health plan shall specify the services to be
10 covered and the amount, scope and duration of benefits.

11 F. The health plan shall include a maximum amount
12 or percentage for administrative costs, and this maximum, if a
13 percentage, may change in relation to the total costs of
14 services provided under the health plan. For the sixth and
15 subsequent calendar years of operation of the health plan,
16 administrative costs shall not exceed five percent of the
17 health plan budget.

18 G. The commission shall specify the terms and
19 conditions for participation of health care providers and
20 health facilities in the health plan.

21 H. The health plan shall contain provisions to
22 control health care costs so that beneficiaries receive
23 comprehensive, high-quality health care consistent with
24 available revenue and budget constraints.

25 I. The health plan shall phase in beneficiaries as

. 143985. 1

underscored material = new
[bracketed material] = delete

1 their participation becomes possible through contracts, waivers
2 or federal legislation. The health plan may provide for
3 certain preventive health services to be offered to all New
4 Mexicans regardless of a person's eligibility to participate as
5 a beneficiary.

6 J. The five-year plan as well as other long- and
7 short-range plans adopted by the commission shall be reviewed
8 by the regional councils and the commission annually and
9 revised as necessary. Revisions shall be adopted by the
10 commission in accordance with Section 11 of the Health Security
11 Act. In projecting services under the health plan, the
12 commission shall take all reasonable steps to ensure that long-
13 term care and dental care are provided at the earliest
14 practical times consistent with budget constraints.

15 Section 18. LONG-TERM CARE. --

16 A. Long-term care may include:

17 (1) home- and community-based services,
18 including personal assistance and attendant care; and

19 (2) institutional care.

20 B. No later than one year after the effective date
21 of the operation of the health plan, the commission shall
22 appoint an advisory "long-term care committee" made up of
23 representatives of health care consumers, providers and
24 administrators to develop a plan for integrating long-term care
25 into the health plan. The committee shall report its plan to

underscored material = new
[bracketed material] = delete

1 the commission no later than one year from its appointment.
2 Committee members shall receive per diem and mileage as
3 provided in the Per Diem and Mileage Act.

4 C. The long-term care component of the health plan
5 shall provide for case management and noninstitutional services
6 where appropriate.

7 D. Nothing in this section affects long-term care
8 services paid through private insurance or state or federal
9 programs subject to the provisions of Sections 40 and 41 of the
10 Health Security Act.

11 E. Nothing in this section precludes the commission
12 from including long-term care services from the inception of
13 the health plan.

14 Section 19. MENTAL AND BEHAVIORAL HEALTH SERVICES. --

15 A. No later than one year after appointment of the
16 chief executive officer, the commission shall appoint an
17 advisory "mental and behavioral health services committee" made
18 up of representatives of mental and behavioral health care
19 consumers, providers and administrators to develop a plan for
20 coordinating mental and behavioral health services within the
21 health plan. The committee shall report its plan to the
22 commission no later than one year from its appointment.
23 Committee members may receive per diem and mileage as provided
24 in the Per Diem and Mileage Act.

25 B. The mental and behavioral health services

underscored material = new
[bracketed material] = delete

1 component of the health plan shall provide for case management
2 and noninstitutional services where appropriate.

3 C. The health plan shall not impose treatment
4 limitations or financial requirements on the provision of
5 mental and behavioral health benefits if identical limitations
6 or requirements are not imposed on coverage of benefits for
7 other conditions.

8 D. Nothing in this section limits mental and
9 behavioral health services paid through private insurance or
10 state or federal programs subject to the provisions of Sections
11 40 and 41 of the Health Security Act.

12 Section 20. MEDICAID COVERAGE--AGREEMENTS.-- The
13 commission may enter into appropriate agreements with the human
14 services department or other state agency for the purpose of
15 furthering the goals of the Health Security Act. These
16 agreements may provide for certain services provided pursuant
17 to the medicaid program to be administered by the commission to
18 implement the health plan.

19 Section 21. HEALTH PLAN COVERAGE--CONDITIONS OF
20 ELIGIBILITY FOR BENEFICIARIES--EXCLUSIONS.--

21 A. An individual is eligible as a beneficiary of
22 the health plan if the individual has been physically present
23 in New Mexico for one year prior to the date of application for
24 enrollment in the health plan and if the individual has a
25 current intention to remain in New Mexico and not to reside

1 elsewhere. A dependent of an eligible individual is included
2 as a beneficiary.

3 B. Individuals covered under the following
4 governmental programs shall not be brought into coverage
5 through agreements or waivers:

- 6 (1) federal retiree health plan beneficiaries;
- 7 (2) active duty and retired military
8 personnel; and
- 9 (3) individuals covered by the federal
10 civilian health and medical plan for the uniformed services.

11 C. Federal Indian health services beneficiaries
12 shall not be brought into coverage except through agreements
13 with:

- 14 (1) individual tribes or pueblos;
- 15 (2) consortia of tribes or pueblos; or
- 16 (3) a federal Indian health service agency
17 subject to the approval of the tribes or pueblos located in
18 that agency.

19 D. If an individual is ineligible because of his
20 failure to fulfill the durational residence requirement, he may
21 choose to become eligible by paying the premium required by the
22 health plan for his coverage for the period of time up to the
23 date he fulfills that requirement if he is an employee who
24 physically resides in the state without an intention to reside
25 elsewhere and if he came to the state because of employment

underscored material = new
[bracketed material] = delete

1 offered to him in New Mexico while he was residing elsewhere as
2 demonstrated by furnishing that evidence of those facts
3 required by rule adopted by the commission.

4 E. The commission shall prescribe by rule
5 conditions under which a nonresident employed in the state may
6 be eligible for coverage pursuant to the health plan.

7 F. An individual who is eligible for health
8 benefits after retirement pursuant to coverage furnished by his
9 previous employer, including coverage for payment of health
10 care supplements if the retiree is eligible for medicare, may
11 agree with his previous employer to participate as a
12 beneficiary in the health plan in lieu of health care benefits
13 available to him as a retiree, but no provision in such an
14 agreement is enforceable that provides for permanent loss of
15 benefits under the retiree health benefit coverage. A previous
16 employer may agree with the commission to contribute to the
17 health plan for the benefit of the retiree, but the agreement
18 shall ensure that the health benefit coverage for the retiree
19 shall be restored in the event of the retiree's ineligibility
20 for health plan coverage.

21 Section 22. HEALTH PLAN COVERAGE OF NONRESIDENT
22 STUDENTS. --

23 A. Except as provided in Subsection B of this
24 section, an educational institution shall purchase coverage
25 under the health plan for its nonresident students through fees

underscored material = new
[bracketed material] = delete

1 assessed to these students. The governing body of an
2 educational institution shall set the fees at the amount
3 determined by the commission.

4 B. A nonresident student at an educational
5 institution may satisfy the requirement for health care
6 coverage by proof of coverage under a policy or plan in another
7 state that is acceptable to the commission. The student shall
8 not be assessed a fee in that case.

9 C. The commission shall adopt rules to determine
10 proof of an individual's eligibility for the health plan or a
11 student's proof of nonresident health care coverage.

12 Section 23. REMOVING INELIGIBLE PERSONS. -- The commission
13 shall adopt rules to provide procedures for removing persons no
14 longer eligible for coverage.

15 Section 24. ELIGIBILITY CARD--USE--PENALTIES FOR
16 MISUSE. --

17 A. A beneficiary shall receive a card as proof of
18 eligibility. The card shall be electronically readable and
19 shall contain a picture or electronic image, information that
20 identifies the beneficiary for treatment and electronic billing
21 and payment and any other information the commission deems
22 necessary.

23 B. The eligibility card is not transferable. A
24 beneficiary who lends his card to another and an individual who
25 uses another's card shall be jointly and severally liable to

underscored material = new
[bracketed material] = delete

1 the commission for the full cost of the health care provided to
2 the user. The liability shall be paid in full within ten days
3 of final determination of liability. Liabilities created
4 pursuant to this section shall be collected by the taxation and
5 revenue department in the same manner as delinquent taxes are
6 collected pursuant to the Tax Administration Act.

7 C. A beneficiary who lends his card to another or
8 an individual who uses another's card after being determined
9 liable pursuant to Subsection B of this section of a previous
10 misuse is guilty of a misdemeanor and shall be sentenced
11 pursuant to the provisions of Section 31-19-1 NMSA 1978. A
12 third or subsequent conviction is a fourth degree felony, and
13 the offender shall be sentenced pursuant to the provisions of
14 Section 31-18-15 NMSA 1978.

15 Section 25. PRIMARY CARE PROVIDER--RIGHT TO CHOOSE--
16 ACCESS TO SERVICES.--

17 A. Except as provided in the Workers' Compensation
18 Act, a beneficiary has the right to choose a primary care
19 provider. If he does not choose a primary care provider, one
20 shall be assigned to him pursuant to procedures specified in
21 rules adopted by the commission.

22 B. The primary care provider is responsible for
23 providing health care provider services to the patient except
24 for:

- 25 (1) services in medical emergencies; and

underscored material = new
[bracketed material] = delete

1 (2) services for which the primary care
2 provider determines that specialist services are required, in
3 which case he shall advise the patient of the need for and the
4 type of specialist services.

5 C. Except as provided in Subsections B, D and F of
6 this section, health care provider specialists shall be paid
7 pursuant to the health plan only if the patient has been
8 referred by the primary care provider. Nothing in this
9 subsection prevents a beneficiary from obtaining the services
10 of a health care provider specialist and paying the specialist
11 for services provided.

12 D. The commission shall by rule specify the
13 conditions under which a beneficiary may select a specialist as
14 a primary care provider.

15 E. The commission shall by rule specify how often
16 and under what conditions a beneficiary may change his primary
17 care provider.

18 F. The commission shall by rule specify when and
19 under what circumstances a beneficiary may self-refer,
20 including self-referral to chiropractic physicians, doctors of
21 oriental medicine, mental and behavioral health services
22 providers and other health care providers who are not primary
23 care providers.

24 Section 26. DISCRIMINATION PROHIBITED. -- A health care
25 provider or health facility shall not discriminate against or

. 143985. 1

underscored material = new
[bracketed material] = delete

1 refuse to furnish health care to a beneficiary on the basis of
2 age, race, color, income level, national origin, religion,
3 gender, sexual orientation, disabling condition or payment
4 status. Nothing in this section shall require a health care
5 provider or health facility to provide services to a
6 beneficiary if the provider or facility is not qualified to
7 provide the needed services and does not offer them to the
8 general public.

9 Section 27. CLAIMS REVIEW. --

10 A. The commission shall adopt rules to provide and
11 shall implement a comprehensive claims review program. The
12 procedures and standards used in the program shall be disclosed
13 in writing to applicants, beneficiaries, health care providers
14 and health facilities at the time of application to or
15 participation in the health plan.

16 B. The decision to approve or deny claims for
17 payment shall be made in a timely manner and shall not exceed
18 time limits established by rule of the commission. A final
19 decision to deny payment for services shall be based on a
20 recommendation made by a health care professional having
21 appropriate and adequate qualifications to make the
22 recommendation. A denial of a claim for payment of a medical
23 specialty service shall be made only after a written
24 recommendation for denial is made by a member of that medical
25 specialty with credentials equivalent to those of the claimant.

1 C. The fact of and the specific reasons for a
2 denial of a health care claim shall be communicated promptly in
3 writing to both the provider and the beneficiary involved.

4 Section 28. MONITORING HEALTH CARE PROVIDER AND HEALTH
5 FACILITY PRACTICES. --

6 A. The commission shall adopt rules to establish
7 and implement a continuous quality improvement program that
8 monitors the quality and appropriateness of health care
9 provided by the health plan. The commission shall set
10 standards and review benefits to ensure that effective, cost-
11 efficient, high quality and appropriate health care is provided
12 under the health plan.

13 B. The commission shall review and adopt
14 professional practice guidelines developed by state and
15 national medical and specialty organizations, the United States
16 agencies for health care policy and research and other
17 organizations as it deems necessary to promote the quality and
18 cost-effectiveness of health care provided through the health
19 plan.

20 C. The quality improvement program shall include an
21 ongoing system for monitoring patterns of practice. The
22 commission shall appoint a health care practice advisory
23 committee consisting of health care providers, health
24 facilities and other knowledgeable persons to advise the
25 commission and staff on health care practice issues. The

underscored material = new
[bracketed material] = delete

1 committee may appoint subcommittees and task forces to address
2 practice issues of a specific health care provider discipline
3 or a specific kind of health facility. The advisory committee
4 shall provide to the commission recommended standards and
5 guidelines to be followed in making determinations on practice
6 issues.

7 D. With the advice of the health care practice
8 advisory committee, the commission shall establish a system of
9 peer education for health care providers or health facilities
10 determined to be engaging in aberrant patterns of practice. If
11 the commission determines that peer education efforts have
12 failed, the commission may refer the matter to the appropriate
13 licensing or certifying board.

14 E. The commission shall provide by rule the
15 procedures for recouping payments or withholding payments for
16 health care determined by the commission with the advice of the
17 health care practice advisory committee or subcommittee to be
18 medically unnecessary. In addition, the commission may provide
19 by rule for the assessment of administrative penalties for up
20 to three times the amount of excess payments if it finds that
21 excessive billings were part of an aberrant pattern of
22 practice. Administrative penalties shall be deposited in the
23 current school fund.

24 F. After consultation with the health care practice
25 advisory committee, the commission may suspend or revoke a

underscored material = new
[bracketed material] = delete

1 health care provider's or health facility's privilege to be
2 paid for health care provided under the health plan based upon
3 evidence clearly supporting a determination by the commission
4 that the provider or facility engages in aberrant patterns of
5 practice, including inappropriate utilization, attempts to
6 unbundle health care services or other practices that the
7 commission deems a violation of the Health Security Act or
8 rules adopted pursuant to that act. As used in this
9 subsection, "unbundle" means to divide a service into
10 components in an attempt to increase or with the effect of
11 increasing compensation from the health plan.

12 G. The commission shall report a suspension or
13 revocation of the privilege to be paid for health care pursuant
14 to the Health Security Act to the appropriate licensing or
15 certifying board.

16 H. The commission shall report cases of suspected
17 fraud by a health care provider or a health facility to the
18 attorney general or to the district attorney of the county
19 where the health care provider or health facility operates for
20 investigation and prosecution.

21 Section 29. DISPUTE RESOLUTION. --

22 A. A person specifically and directly aggrieved by
23 a decision of the commission has the right to judicial review
24 of the decision by the district court of Santa Fe county. As a
25 prerequisite to judicial review the person aggrieved must

underscored material = new
[bracketed material] = delete

1 exhaust administrative remedies available through procedures
2 for dispute resolution established by rule of the commission,
3 including mandatory participation in mediation in a good-faith
4 effort to resolve a dispute. The commission shall include in
5 its rules for dispute resolution provisions for adequate notice
6 to the disputants, opportunities to be heard in informal
7 conferences prior to mediation and all procedural due process
8 safeguards.

9 B. Judicial review of a contested commission
10 decision is governed by Rule 1-074 NMRA 1999.

11 Section 30. HEALTH PLAN BUDGET. --

12 A. Annually, the commission shall develop and
13 submit to the legislature a health plan budget. The budget
14 shall be the commission's recommendation for the total amount
15 to be spent by the plan for covered health care services in the
16 next fiscal year.

17 B. Unless otherwise provided in the general
18 appropriation act or other act of the legislature, the health
19 plan budget shall be within projected annual revenues. After
20 the legislative review and approval, the commission shall
21 implement the health plan budget. Without specific legislative
22 approval, the commission shall not change the level of premium
23 charged and used to project revenue or change the employer
24 contributions under the health plan.

25 C. In developing the health plan budget, the

underscored material = new
[bracketed material] = delete

1 commission shall provide that credit be taken in the budget for
2 all revenues produced for health care in the state pursuant to
3 any law other than the Health Security Act.

4 Section 31. PAYMENTS TO HEALTH CARE PROVIDERS--CO-
5 PAYMENTS. --

6 A. The commission shall prepare a provider budget.
7 Consistent with the provider budget, the health plan shall
8 provide payment for all covered health care rendered by health
9 care providers. A variety of payment plans, including fee-for-
10 service, may be adopted by the commission. Payment plans shall
11 be negotiated with providers as provided by rule. In the event
12 that negotiation fails to develop an acceptable payment plan,
13 the disputing parties shall submit the dispute for resolution
14 pursuant to Section 29 of the Health Security Act.

15 B. Different or supplemental payment rates may be
16 adopted to provide incentives to help ensure the delivery of
17 needed health care in rural and other underserved areas
18 throughout the state.

19 C. An annual percentage increase in the amount
20 allocated for provider payments in the budget shall be no
21 greater than the annual percentage increase in the consumer
22 price index of medical care prices published by the bureau of
23 labor statistics of the federal department of labor using the
24 year prior to the year in which the health plan is implemented
25 as the baseline year. The annual limitation in this subsection

underscored material = new
[bracketed material] = delete

1 may be adjusted up or down by the commission based on a showing
2 of special and unusual circumstances in a hearing before the
3 commission.

4 D. Payment, or the offer of payment whether or not
5 that offer is accepted, to a health care provider for services
6 covered by the health plan shall be payment in full for those
7 services. A health care provider shall not charge a
8 beneficiary an additional amount for services covered by the
9 plan.

10 E. The commission may establish co-payment
11 schedules if a required co-payment is determined to be an
12 effective cost-control measure. No co-payment shall be
13 required for preventive health care. When a co-payment is
14 required, the health care provider shall not waive the co-
15 payment.

16 Section 32. PAYMENTS TO HEALTH FACILITIES--CO-PAYMENTS.--

17 A. A health facility shall negotiate an annual
18 operating budget with the commission. The operating budget
19 shall be based on a base operating budget of past performance
20 and projected changes upward or downward in costs and services
21 anticipated for the next year. If a negotiated annual operating
22 budget is not agreed upon, a health facility shall submit the
23 budget to dispute resolution pursuant to Section 29 of the
24 Health Security Act. The initial base operating budget for a
25 health facility shall be based on the average of its operating

. 143985. 1

underscored material = new
[bracketed material] = delete

1 budgets for a twenty-four-month period ending no later than the
2 first day of the calendar year in which the health plan is
3 implemented. An annual percentage increase in the amount
4 allocated for a health facility operating budget shall be no
5 greater than the change in the annual consumer price index for
6 medical care prices, published annually by the bureau of labor
7 statistics of the federal department of labor. The annual
8 limitation in this subsection may be adjusted up or down by the
9 commission based on a showing of special and unusual
10 circumstances in a hearing before the commission.

11 B. Different or supplemental payment rates may be
12 adopted to provide incentives to help ensure the delivery of
13 needed health care services in rural and other underserved areas
14 throughout the state.

15 C. Each health care provider employed by a health
16 facility shall be paid from the facility's operating budget in a
17 manner determined by the health facility.

18 D. The commission may establish co-payment schedules
19 if a required co-payment is determined to be an effective cost-
20 control measure. No co-payment shall be required for preventive
21 care. When a co-payment is required, the health facility shall
22 not waive the co-payment.

23 Section 33. HEALTH RESOURCE CERTIFICATE-- COMMISSION
24 RULES-- REQUIREMENT FOR REVIEW.--

25 A. The commission shall adopt rules stating when a

. 143985. 1

underscored material = new
[bracketed material] = delete

1 health facility or health care provider must apply for a health
2 resource certificate, how the application will be reviewed, how
3 the certificate will be granted, how an expedited review is
4 conducted and other matters relating to health resource
5 projects.

6 B. Except as provided in Subsection F of this
7 section, no health facility or health care provider shall make
8 or obligate itself to make a major capital expenditure without
9 first obtaining a health resource certificate.

10 C. No health facility or health care provider shall
11 acquire through rental, lease or comparable arrangement or
12 through donation all or a part of a capital project that would
13 have required review if the acquisition had been by purchase
14 unless the project is granted a health resource certificate.

15 D. No health facility or health care provider shall
16 engage in component purchasing in order to avoid the provisions
17 of this section.

18 E. The commission shall grant a health resource
19 certificate for a major capital expenditure or a capital project
20 undertaken pursuant to Subsection C of this section only when
21 the project is determined to be needed.

22 F. This section does not apply to:

23 (1) the purchase, construction or renovation of
24 office space for health care providers;

25 (2) expenditures incurred solely in preparation

underscored material = new
[bracketed material] = delete

1 for a capital project, including architectural design, surveys,
2 plans, working drawings and specifications and other related
3 activities, but those expenditures shall be included in the cost
4 of a project for the purpose of determining whether a health
5 resource certificate is required;

6 (3) acquisition of an existing health facility,
7 equipment or practice of a health care provider that does not
8 result in a new service being provided or in increased bed
9 capacity;

10 (4) major capital expenditures for nonclinical
11 services when the nonclinical services are the primary purpose
12 of the expenditure; and

13 (5) the replacement of equipment with equipment
14 that has the same function and that does not result in the
15 offering of new services.

16 G. No later than January 1, 2008, the commission
17 shall report to the appropriate committees of the legislature on
18 the capital needs of health facilities, including facilities of
19 state and local governments, with a focus on underserved
20 geographic areas with substantially below-average health
21 facilities and investment per capita as compared to the state
22 average. The report shall also describe geographic areas where
23 the distance to health facilities imposes a barrier to care.
24 The report shall include a section on health care transportation
25 needs, including capital, personnel and training needs. The

. 143985. 1

underscored material = new
[bracketed material] = delete

1 report shall make recommendations for legislation to amend the
2 Health Security Act that the commission determines necessary and
3 appropriate.

4 Section 34. ACTUARIAL REVIEW - AUDITS. --

5 A. The commission shall provide for an annual
6 independent actuarial review of the health plan and any funds of
7 the commission or the plan.

8 B. The commission shall provide by rule for
9 independent financial audits of health care providers and health
10 facilities.

11 C. The commission, through its staff or by contract,
12 shall perform announced and unannounced audits, including
13 financial, operational, management and electronic data
14 processing audits of health care providers and health
15 facilities. The auditor shall report directly to the
16 commission. A copy of the audit report shall be given to the
17 state auditor.

18 D. Actuarial reviews, financial audits and internal
19 audits are public documents after they have been released by the
20 commission.

21 Section 35. STANDARD CLAIM FORMS FOR INSURANCE PAYMENT. --

22 The commission shall adopt standard claim forms that shall be
23 used by all health care providers and health facilities that
24 seek payment through the health plan or from private persons,
25 including private insurance companies, for health care services

underscored material = new
[bracketed material] = delete

1 rendered in the state. Each claim form may indicate whether a
2 person is eligible for federal or other insurance programs for
3 payment. Each claim form shall include data elements required
4 by the commission.

5 Section 36. COMPUTERIZED SYSTEM -- The commission shall
6 require that all participating health care providers and health
7 facilities participate in the health plan's computer network
8 that provides for electronic transfer of payments to health care
9 providers and health facilities; transmittal of reports,
10 including patient data and other statistical reports; billing
11 data, with specificity as to procedures or services provided to
12 individual patients; and any other information required or
13 requested by the commission.

14 Section 37. REPORTS REQUIRED-- CONFIDENTIAL INFORMATION. --

15 A. The commission, through the state health
16 information system, shall require reports by all health care
17 providers and health facilities of information needed to allow
18 the commission to evaluate the health plan, cost-containment
19 measures, utilization review, health facility operating budgets,
20 health care provider fees and any other information the
21 commission deems necessary to carry out its duties pursuant to
22 the Health Security Act.

23 B. The commission shall establish uniform reporting
24 requirements for health care providers and health facilities.

25 C. Information confidential pursuant to other

underscored material = new
[bracketed material] = delete

1 provisions of law shall be confidential pursuant to the Health
2 Security Act. Within the constraints of confidentiality,
3 reports of the commission are public documents.

4 Section 38. CONSUMER, PROVIDER AND HEALTH FACILITY
5 ASSISTANCE PROGRAM --

6 A. The commission shall establish a consumer,
7 provider and health facility assistance program to take
8 complaints and to provide timely and knowledgeable assistance
9 to:

10 (1) eligible persons and applicants about their
11 rights and responsibilities and the coverages provided in
12 accordance with the Health Security Act; and

13 (2) health care providers and health facilities
14 about the status of claims, payments and other pertinent
15 information relevant to the claims payment process.

16 B. The commission shall establish a toll-free
17 telephone line for the consumer, provider and health facility
18 assistance program and shall have persons available throughout
19 the state to assist beneficiaries, applicants, health care
20 providers and health facilities in person.

21 Section 39. REIMBURSEMENT FOR OUT-OF-STATE SERVICES--
22 HEALTH PLAN'S RIGHT TO SUBROGATION AND PAYMENT FROM OTHER
23 INSURANCE PLANS--CHARGES FOR NONCOVERED PERSONS. --

24 A. If a beneficiary needs health care services out
25 of state, those services shall be covered at the same rate that

underscored material = new
[bracketed material] = delete

1 would apply if the services were received in New Mexico. Higher
2 charges for those services shall not be paid by the health plan
3 unless the commission negotiates a reciprocity or other
4 agreement with the other state or foreign country or with the
5 out-of-state health care provider or health facility.

6 B. The health plan shall make reasonable efforts to
7 ascertain any legal liability of third parties who are or may be
8 liable to pay all or part of the health care services costs of
9 injury, disease or disability of a beneficiary.

10 C. When the health plan makes payments on behalf of
11 a beneficiary, the health plan is subrogated to any right of the
12 beneficiary against a third party for recovery of amounts paid
13 by the health plan.

14 D. By operation of law, an assignment to the health
15 plan of the rights of a beneficiary:

16 (1) is conclusively presumed to be made of:

17 (a) a payment for health care services
18 from any person, firm or corporation, including an insurance
19 carrier; and

20 (b) a monetary recovery for damages for
21 bodily injury, whether by judgment, contract for compromise or
22 settlement;

23 (2) shall be effective to the extent of the
24 amount of payments by the health plan; and

25 (3) shall be effective as to the rights of any

underscored material = new
[bracketed material] = delete

1 other beneficiaries whose rights can legally be assigned by the
2 beneficiary.

3 Section 40. PRIVATE HEALTH INSURANCE COVERAGE LIMITED. --

4 A. After the date the health plan is operating, no
5 person shall provide private health insurance to a beneficiary
6 for a health care service that is covered by the health plan
7 except for retiree health insurance plans that do not enter into
8 contracts with the health plan. This prohibition does not apply
9 to supplemental benefits.

10 B. Nothing in this section affects insurance
11 coverage pursuant to the federal Employee Retirement Income
12 Security Act of 1974 unless the state obtains a congressional
13 exemption or a waiver from the federal government. Businesses
14 that are covered by the provisions of that act may elect to
15 participate in the health plan.

16 Section 41. HEALTH PLAN FUND CREATED--FEDERAL HEALTH
17 INSURANCE PROGRAM WAIVERS--REIMBURSEMENT TO HEALTH PLAN FROM
18 FEDERAL AND OTHER HEALTH INSURANCE PROGRAMS. --

19 A. The "health plan fund" is created in the state
20 treasury. All revenues received pursuant to the Health Security
21 Act shall be deposited in the fund.

22 B. The commission shall:

23 (1) in conjunction with the human services
24 department, apply to the United States department of health and
25 human services for all waivers of requirements under health care

. 143985. 1

underscored material = new
[bracketed material] = delete

1 programs established pursuant to the federal Social Security Act
2 that are necessary to enable the state to deposit federal
3 payments for services covered by the health plan into the health
4 plan fund and to be the supplemental payer of benefits for
5 persons receiving medicare benefits;

6 (2) except for those programs designated in
7 Subsection B of Section 21 of the Health Security Act, identify
8 other federal programs that provide federal funds for payment of
9 health care services to individuals and apply for any waivers or
10 enter into any agreements that are necessary to enable the state
11 to deposit federal payments for health care services covered by
12 the health plan into the health plan fund; provided, however,
13 agreements negotiated with the federal Indian health service
14 shall not impair treaty obligations of the United States
15 government, and other agreements negotiated shall not impair
16 portability or other aspects of the health care coverage; and

17 (3) seek an amendment to the federal Employee
18 Retirement Income Security Act of 1974 to exempt New Mexico from
19 the provisions of that act that relate to health care services
20 or health insurance, or the commission shall apply to the
21 appropriate federal agency for waivers of any requirements of
22 that act if congress provides for waivers to enable the
23 commission to extend coverage through the Health Security Act to
24 as many New Mexicans as possible.

25 C. The commission shall seek payment to the health

underscored material = new
[bracketed material] = delete

1 plan from medicaid, medicare or any other federal or other
2 insurance program for any reimbursable payment provided under
3 the plan.

4 D. The commission shall seek to maximize federal
5 contributions and payments for health care services provided in
6 New Mexico and shall ensure that the contributions of the
7 federal government for health care services in New Mexico will
8 not decrease in relation to other states as a result of any
9 waivers, exemptions or agreements.

10 Section 42. INSURANCE--COMMISSION APPROVAL.--No person
11 shall insure himself or his employees after January 1, 2006
12 unless the coverage terminates on the date that the insureds are
13 eligible for coverage under the health plan. Nothing in this
14 section prohibits insurance coverage for health care services
15 not covered by the health plan or for individuals not eligible
16 for coverage under the health plan.

17 Section 43. INSURANCE RATES--SUPERINTENDENT OF INSURANCE
18 DUTIES.--

19 A. The superintendent of insurance shall work
20 closely with the legislative finance committee pursuant to
21 Section 44 of the Health Security Act to identify premium costs
22 associated with health care coverage pursuant to existing
23 insurance policies that have a medical payment component. The
24 superintendent shall develop an estimate of expected reduction
25 in those costs based upon assumptions of specific coverage in

. 143985. 1

underscored material = new
[bracketed material] = delete

1 the health plan, and shall report his findings to the
2 legislative finance committee.

3 B. The superintendent of insurance shall lower
4 insurance premiums associated with medical benefits on all types
5 of insurance policies written in New Mexico that have a medical
6 payment component on the date the health plan is implemented.

7 Section 44. FINANCING THE HEALTH PLAN. --

8 A. The legislative finance committee shall determine
9 financing options for the health plan. In making its
10 determinations the committee shall be guided by the following
11 requirements and assumptions:

12 (1) benefits to be included and for which costs
13 are to be projected in determining the financing options shall
14 be no less than the health care coverage afforded state
15 employees; and

16 (2) options may set minimum and maximum levels
17 of premium payments, sliding scale premium payments and medicare
18 credits and employer contributions.

19 B. The legislative finance committee shall prepare a
20 report of its determinations with the specific options and
21 recommendations no later than December 15, 2003. The report
22 shall be submitted for consideration for legislative
23 implementation to the second session of the forty-sixth
24 legislature.

25 Section 45. TEMPORARY PROVISION--TRANSITION PERIOD

. 143985. 1

